United Nations A/65/86

General Assembly

Distr.: General
15 June 2010

Original: English

Sixty-fifth session
Agenda item 144 of the preliminary list*
Administration of justice at the United Nations

Code of conduct for the judges of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal

Report of the Internal Justice Council

1. By its resolution 62/228, the General Assembly established the Internal Justice Council to help ensure independence, professionalism and accountability in the new system of administration of justice. In paragraph 37 (c) of that resolution the Assembly decided that the Council should draft a code of conduct for the judges of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, for consideration by the General Assembly.

2. After full consultation with the judges of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, the Internal Justice Council has drafted a code of conduct for the judges of the two Tribunals, for consideration by the General Assembly. The code is set out in the annex to the present report.

3. Signed by the members of the Internal Justice Council and submitted to the Secretary-General for transmission to the General Assembly.

(*Signed*) Kate **O'Regan**

(*Signed*) Sinha **Basnayake**

(*Signed*) Jenny **Clift**

(*Signed*) Martha Helena **Lopez**

(*Signed*) Geoffrey **Robertson**

* A/65/50.

10-40646 (E) 080710

Please recycle

Annex

Code of conduct for the judges of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal

Preamble

Whereas the Universal Declaration of Human Rights recognizes as fundamental the principle that everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of rights and obligations,

Whereas this right is endorsed and elaborated upon in a range of important international human rights instruments, including the International Covenant on Civil and Political Rights,

Whereas the General Assembly, in paragraph 4 of its resolution 61/261 of 4 April 2007, decided to establish an independent, transparent, professionalized, adequately resourced and decentralized system of administration of justice consistent with the relevant rules of international law and the principles of the rule of law and due process to ensure respect for the rights and obligations of staff members and the accountability of managers and staff members alike,

Whereas the fair resolution of employment grievances will contribute to efficiency in the work carried out by the United Nations and enhance the integrity of the Organization,

Whereas public confidence in the internal justice system and in the moral authority and integrity of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal is of the utmost importance within the working environment of the United Nations,

Whereas it is essential that judges, individually and collectively, respect and honour judicial office as a public trust, and strive to enhance and maintain confidence in the internal justice system,

And whereas the United Nations Basic Principles on the Independence of the Judiciary are designed to secure and promote the independence of judicial bodies, and can provide guidance to the internal administration of justice,

The following values and principles are adopted to establish standards for the conduct of the judges of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, to provide guidance to those judges and to assist the staff and management of the United Nations to better understand and support the work of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal within the United Nations:

1. Independence

(a) Judges must uphold the independence and integrity of the internal justice system of the United Nations and must act independently in the performance of their duties, free of any inappropriate influences, inducements, pressures or threats from any party or quarter;

(b) In order to protect the institutional independence of the Tribunals, Judges must take all reasonable steps to ensure that no person, party, institution or State interferes, directly or indirectly, with the Tribunals;

2. Impartiality

(a) Judges must act without fear, favour, or bias in all matters that they adjudicate;

(b) Judges must ensure that their conduct at all times maintains the confidence of all in the impartiality of the Tribunals;

(c) Judges must recuse themselves from a case if

(i) They have a real conflict of interest or are actually biased;

(ii) It may reasonably appear to a properly informed person that they have a conflict of interest or bias;

(iii) They have personal knowledge of disputed evidentiary facts concerning the proceedings;

(d) Judges must not recuse themselves on insubstantial grounds. Judges must provide reasons when they decide an application for recusal;

(e) Judges must disclose to the parties in good time any matter that could reasonably be perceived to give rise to an application for recusal in a particular matter;

(f) Judges must not participate in the determination of a case in which any member of their family is a litigant or represents a litigant, or in the outcome of which any member of their family has a significant interest;

(g) In order to determine whether they should recuse themselves from any matter, judges must be aware of their personal and fiduciary financial interests and shall, as far as reasonably possible, make efforts to be informed about the financial interests of members of their immediate families;

(h) (i) Judges must not directly or indirectly negotiate or accept any remuneration, income, compensation, gift, advantage or privilege that is incompatible with judicial office or that can reasonably be perceived either as a reward or as likely to influence them in favour of a particular party;

(ii) Judges may receive a token gift, decoration, award or benefit that does not result in the incompatibility or reasonable perception referred to in subparagraph (i);

(i) Judges must not engage in financial, political or business dealings or activities, including fund-raising activities, that are inconsistent with, and reflect adversely upon, the independence and impartiality required by their status as judges, that may reasonably be perceived to exploit the judge's judicial position, or that are in any other way incompatible with judicial office in the United Nations. Should a judge be unsure whether a course of conduct would be in breach of this provision, he or she may ask the presiding judge of the Tribunal to contact the chair of the Internal Justice Council. The Council will then consider the matter and inform the judge concerned whether the proposed conduct is in conflict with this provision;

3. Integrity

(a) Judges must be of high moral character and always, and not only in the discharge of their duties, act honourably and in accordance with the values and principles set out in the present Code;

(b) Judges at all times, including periods when they are not on official business, must comply with the law of the country in which they live, work or visit;

(c) Judges must inform the presiding judge of their Tribunal should they suffer from an illness or other condition that might threaten the performance of their duties;

4. Propriety

(a) Judges must exhibit and promote high standards of judicial conduct to reinforce confidence in the integrity of the administration of justice in the United Nations;

(b) Save in the discharge of judicial office, judges must not comment publicly on the merits of any case pending before the Tribunals or make any comment that might reasonably be expected to affect the outcome of such proceedings or impair the manifest fairness of the process;

(c) Judges are bound by professional duties of confidentiality with regard to deliberations with judicial colleagues and confidential information acquired in the course of their duties;

(d) Judges, like other citizens, are entitled to freedom of expression, belief, association and assembly, but must exercise these freedoms with due regard to the values and principles set out in the present Code;

(e) Judges must not use or lend the prestige of judicial office to advance the private interests of the judge, a member of the judge's family or anyone else, nor shall judges convey the impression that anyone is in a position to influence them improperly;

(f) In their personal relations with individual staff members who are parties, legal representatives and others who appear regularly in the Tribunal presided over by them, judges must avoid situations which might give rise to the reasonable apprehension of favouritism or partiality;

(g) Full-time judges of the United Nations Dispute Tribunal must not practice law, but may give informal advice to family members, friends, charitable organizations and the like without remuneration;

(h) Judges should use their best endeavours to foster collegiality in the Tribunals. In so doing they must act courteously and respect the dignity of others, including members of the Tribunal staff;

(i) Judges may form or join associations of judges;

(j) Subject to the proper and effective performance of judicial duties, a judge may engage in any lawful activity as long as it does not bring judicial office in the United Nations into disrepute in the mind of reasonable members of the community;

5. Transparency

Judges must observe the principle of open justice, namely that justice must be seen to be done, and take reasonable steps to ensure that this principle is honoured in the manner in which cases before the Tribunals are handled;

6. Fairness in the conduct of proceedings

(a) Judges must resolve disputes by making findings of fact and applying the appropriate law in fair proceedings. This includes the duty to

(i) Observe the letter and spirit of the *audi alteram partem* ("hear the other side") rule;

(ii) Remain manifestly impartial;

(iii) Publish reasons for any decision;

(b) Judges must not conduct themselves in a manner that is racist, sexist, or otherwise discriminatory. They must uphold and respect the principles set out in the Charter of the United Nations, the Universal Declaration of Human Rights and the International Convention on Civil and Political Rights. Judges must not by word or conduct unfairly discriminate against any individual or group of individuals, or abuse the power and authority vested in them;

(c) Judges must not permit Tribunal staff or legal representatives appearing before the Tribunals, or others under their direction or control, to act in a manner that is racist, sexist, or otherwise discriminatory;

(d) Judges have a duty to protect witnesses and parties from harassment and bullying during Tribunal proceedings;

(e) When conducting judicial proceedings, judges must act courteously to legal representatives, parties, witnesses, Tribunal staff, judicial colleagues and the public, and require them to act courteously;

(f) Judges must maintain order in Tribunal proceedings. Where necessary, they may have any person removed from the proceedings who disrupts or threatens to disrupt the orderly administration of justice;

7. Competence and diligence

(a) Judges perform all assigned judicial duties, including tasks relevant to the judicial office or the operation of the Tribunals, diligently and dispose of judicial work promptly in an efficient and professional manner;

(b) Judges must give judgement or rulings in a case promptly. Judgements should be given no later than three months from the end of the hearing or the close of pleadings or, in the case of the United Nations Appeals Tribunal, from the end of the session in which the matter is decided, unless there are exceptional circumstances;

(c) Judges must cooperate with any formal inquiry into their conduct in office;

(d) Judges must not engage in conduct that is prejudicial to the effective and expeditious administration of justice or the work of the Tribunal;

(e) When engaged in the administration of justice, judges must attend chambers during their normal working hours, as determined by the members of the Tribunal, and attend hearings and deliberations of the Tribunal during stipulated hours, unless they have a good reason not to do so. Judges must inform the presiding judge of the Tribunal in advance if they need to be absent. If they are to be absent for longer than three days, they must obtain the approval of the presiding judge of their Tribunal;

(f) Judges must respect and comply with the reasonable administrative requests of the presiding judge of the Tribunal of which they are members;

(g) Judges must take reasonable steps to maintain the necessary level of professional competence and to keep themselves informed about relevant developments in international administrative and employment law, as well as international human rights norms;

(h) Judges' judicial duties must take precedence over other duties and activities.